

REMARKS

The indication that claims 5, 10, 14 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, is acknowledged.

Applicants note that the Examiner at page 3 of the office action has pointed out that "the Examiner cannot find any applicable prior art and/or suggestions" with regard to the recited features of claims 5, 10, 14 and 17 in combination with the rest of the limitations of the parent claims.

By the present amendment, objected to claims 5, 10, 14 and 17 have been written in independent form, while canceling the respective parent claims 1, 6, 8 and 11, and deleting the feature of optical measurement or scatterometry in the parent claims. Further, to avoid redundant expressions the phrase "which are quantified by using information of a first order differential waveform" has also been deleted from the parent claims, and the objected to claims have been amended to refer to "a" first-order differential waveform rather than "the" first order differential waveform while correcting informalities, such that the features of the objected to claims 5, 10, 14 and 17, recognized by the Examiner as not being disclosed or taught in the cited art, have been retained without amendment other than that of a clarifying nature. Accordingly, applicants submit that objected to claims 5, 10, 14 and 17, as rewritten in independent form, should now be in condition for allowance.

Additionally, as noted above, claims 1, 6, 8 and 11 have been canceled without prejudice or disclaimer of the subject matter thereof, with the dependent claims 2 - 4, 6 and 7 being amended to properly depend from now independent claim 5, dependent claim 9 being amended to depend from now independent claim 10,

dependent claims 12, 13 and 15 being amended to depend from now independent claim 14, and dependent claim 18 being amended to depend from now independent claim 17. Thus, all claims remaining in this application should now be in condition for allowance.

As to the rejection of claims 1 - 4, 8, 9 and 16 under 35 USC 103(a) as being unpatentable over Houge et al (US Patent No. 6,651,226) in view of Hayes (US Pub. No. 2003/0108235); the rejection of claim 11 under 35 USC 103(a) as being unpatentable over Houge et al ('226) in view of Hayes ('235) and Gibas (US Patent No. 5,675,377); the rejection of claims 6, 7 and 18 under 35 USC 103(a) as being unpatentable over Houge et al ('226) and Hayes ('235) further in view of Lorusso (US Patent No. 6,930,308); and the rejection of claims 12, 13 and 15 under 35 USC 103(a) as being unpatentable over Houge et al ('226) and Hayes ('235) and Gibas ('377) further in view of Lorusso (US Patent No. 6,930,308); such rejections are considered to be obviated by the cancellation of previous independent claims 1, 8, 11 and 16 and the rewriting of objected to claims 5, 10, 14 and 17 in independent form while amending the dependent claims to properly depend from the written objected to claims. Accordingly, discussion of the cited art in relation thereto is considered unnecessary.

For the foregoing reasons, applicants submit that all claims present in this application recite features, as recognized by the Examiner, which patentably distinguish over the cited art, and all claims should now be in condition for allowance. Accordingly, issuance of an action of favorable nature is courteously solicited.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing

of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 501.43127X00), and please credit any excess fees to such deposit account.

Respectfully submitted,

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